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IN THE

Supreme Court of the United States

OCTOBER TERM, 1963.

NO. ~~111~~

DEPARTMENT OF MENTAL HYGIENE OF THE
STATE OF CALIFORNIA,

Petitioner,

vs.

EVELYN KIRCHNER, Administratrix of the Estate of
ELLINOR GREEN VANCE,

Respondent.

(Petition for Writ of Certiorari to the
Supreme Court of the State of California)

**AMICUS CURIAE BRIEF OF THE STATE OF ILLINOIS
IN SUPPORT OF THE PETITION FOR WRIT OF
CERTIORARI TO THE SUPREME COURT OF THE
STATE OF CALIFORNIA, FILED BY THE STATE OF
CALIFORNIA.**

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Attorney General of the State of Illinois,

*Attorney for the State of Illinois,
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RICHARD E. FRIEDMAN,

First Assistant Attorney General of Illinois,

RAYMOND S. SARNOV,

JEROME F. GOLDBERG,

Assistant Attorneys General,

Of Counsel.

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The presently standing opinion of the Supreme Court of
the State of California, reported in 60 AC 704, 388 P. (2d)
720, 36 Cal. Rptr. 488 (1964), seriously places in jeopardy

the validity of pertinent statutes of the State of Illinois which are similar in language but identical in principle to the California statute considered by the Supreme Court of the State of California. The validity of the Illinois laws is beclouded as a result of the opinion and decision of the Supreme Court of the State of California which so broadly applies the Equal Protection Clause of the Constitution of the United States so as to bring within its prohibition the classification of persons responsible for the care and maintenance of patients in State Institutions under the California statutes and likewise those of the State of Illinois.

The applicable Illinois statutes are found in Chapter 914, Ill. Rev. Stats. 1963, to-wit:

"9-19. Liability for maintenance charges in state hospital. § 9-19. Each patient receiving treatment in a Mental Health program of the Department and the estate of such patient is liable for the payment of sums representing charges for treatment of such patient at a rate to be determined by the Department in accordance with the provisions of Section 9-20 of this Act. If such patient is unable to pay or if the estate of such patient is insufficient, the responsible relatives, are severally liable for the payment of such sums, or for the balance due in case less than the amount prescribed under this Act has been paid, provided that: the maximum treatment charges for each patient assessed against reasonable relatives collectively shall not exceed \$50 per month; the liability of each responsible relative for payment of treatment charges shall cease when payments on the basis of financial ability have been made for a total of 12 years for any patient, and any portion of such 12-year period, during which a responsible relative has been determined by the Department to be financially unable to pay any treatment charges, shall be included in fixing the total period of liability; no child shall be liable under this Act for treatment of a parent who wilfully failed to contribute to the support of such child for a period of at least 5 years dur-

ing his minority; and that no wife shall be liable under this Act for the treatment of a husband who wilfully failed to contribute to her support for a period of 5 years immediately preceding his commitment. Any child or wife claiming exemption because of such wilful failure to support during any such 5-year period shall be required to furnish the Department with clear and convincing evidence substantiating such claim. As amended by act approved May 2, 1963. L. 1963, p., H. B. No. 392. Effective Jan. 1, 1964."

Responsible relatives are defined in the Illinois Act under Section 1-17 as follows:

"1-17. Responsible relatives. § 1-17. 'Responsible Relatives', when used in this Act, means the spouse, parent or parents, child or children of patients receiving care and service in Mental Health programs of the Department. Added by act approved May 2, 1963. L. 1963, p., H. B. No. 392. Effective Jan. 1, 1964."

It thus appears that the thrust of the opinion and decision of the Supreme Court of the State of California seriously impugns the substantially similar statutes of the State of Illinois. The Attorney General of the State of Illinois is deeply concerned about the grave issues raised in this case and presented in the instant petition for certiorari filed in this court.

It is respectfully submitted that the State of Illinois, by William G. Clark, Attorney General of the State of Illinois, hereby adopts and joins in the position, reasons advanced for the granting of the petition for certiorari and argu-

ment of the State of California in the above entitled matter,
as contained in the petition for certiorari filed in this court.

Respectfully submitted,

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